# EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2003-1045-PST-E TCEQ ID: RN100825090 CASE NO.: 9296 RESPONDENT NAME: FRIEND ENTERPRISES INC. DBA FRIENDLY MART

ORDER TYPE:							
_1660 AGREED ORDER							
X FINDINGS DEFAULT ORDER	_X_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER					
AMENDED ORDER	EMERGENCY ORDER						
CASE TYPE:							
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE					
PUBLIC WATER SUPPLY	X_PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION					
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL					
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION					
SITE WHERE VIOLATION(S) OCCURRED: 7200 Manchaca, Austin, Travis County  TYPE OF OPERATION: convenience store with retail sales of gasoline  SMALL BUSINESS: X Yes No  OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.  INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.  COMMENTS RECEIVED: The Texas Register comment period expired on April 21, 2008. No comments were received.  CONTACTS AND MAILING LIST:  TCEQ Attorney: Mr. Robert Mosley, Litigation Division, MC 175, (512) 239-0627  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Air Enforcement Section, MC 169, (512) 239-4490  TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929  Respondent: Mr. Sultanali Momin, President, Friend Enterprises Inc., 7200 Manchaca Road, Austin, Texas 78745  Respondent's Attorney: Not represented by counsel on this enforcement matter.							

#### VIOLATION SUMMARY CHART:

#### VIOLATION INFORMATION PENALTY CONSIDERATIONS **CORRECTIVE ACTIONS** TAKEN/REQUIRED Type of Investigation: Total Assessed: \$17,000 **Ordering Provisions** \_\_ Complaint Total Deferred: \$0 The Respondent shall undertake the following x Routine technical requirements: \_\_\_ Enforcement Follow-up Total Due to General Revenue: \$17,000 Records Review 1. The Respondent shall take the following steps The Respondent has not actually paid any of the to shut down operations of the non-compliant Date of Complaints Relating to this Case: assessed penalty, but will be required to do so UST systems at the Facility: under the terms of this Order. None Dates of Investigation Relating to this Case: Site Compliance History Classification a. Immediately: September 11, 2003 \_X\_ High \_\_ Average \_\_ Poor i. Cease dispensing fuel from the Person Compliance History Classification Date of NOEs Relating to this Case: October 19, 2003 and November 18, 2003 \_X\_ High \_\_ Average \_\_ Poor Cease receiving deliveries of ii. Major Source: \_\_\_ Yes \_X\_ No **Background Facts:** regulated substances into the An EDPRP was filed on June 17, 2002, January USTs: 18, 2006. An EDFARP was filed on October 11, Applicable Penalty Policy: September 2002 2006. An EDSARP was filed on January 19, Padlock the dispensers; iii. 2007. The Respondent received notice of the EDSARP on January 20, 2007, as evidenced by the signature on the return receipt "green card". iv. Empty the USTs of all regulated The Default Order and Shutdown Order was substances; and remanded from the June 27, 2007 Agenda. The Respondent appeared at the Agenda through his Temporarily remove the UST ` v. attorney and requested that the matter be system from service. remanded to pursue an Agreed Order. Respondent was offered an Agreed Order with a payment plan. The Respondent has not entered into an Agreed b. The Respondents' UST delivery certificate Order, filed an answer or requested a hearing. is revoked immediately upon the effective date of the Order. The Respondent may submit an application for a new delivery The Respondent in this case does not owe any certificate only after the Respondent has other penalties according to the Administrative complied with all of the requirements of Penalty Database Report. the order. PST-E: 2. Within 10 days, submit its UST delivery 1. Failed to monitor the USTs for releases at a certificate. frequency of at least once per month, not to exceed 35 days between each monitoring [30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER 3. Within 15 days submit to the Executive Director a detailed written report documenting CODE § 26.3475(c)(1)]. the steps it has taken to comply with these Ordering Provisions 1 and 2. 2. Failed to conduct inventory control and reconciliation for a UST system at a retail facility [30 Tex. Admin. Code § 334.48(c)]. 4. If the Respondent elects to permanently remove from service any UST systems at the Facility, the Respondent shall permanently 3. Failed to test or monitor the piping in the UST remove those UST systems. system for releases [30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and (b)(2)(A)(ii), and Tex. Water Code § 26.3475(a)].

DOCKET NO.: 2003-1045-PST-E

	5. Prior to resuming service of the USTs, the Respondent shall:
	a. Test or monitor the piping in the UST system;
	b. Install and implement a release detection method; and
	c. Begin conducting inventory control and reconciliation procedures.
	6. Within 10 days of resuming service to the USTs, submit written certification notarized by a State of Texas Notary Public and include detailed supporting documentation including photographs, receipts, and or other records to demonstrate compliance with listed Ordering Provisions.
	7. The Respondents' UST systems shall remain out of service as directed by listed Ordering Provisions, until such time as the Respondent demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted.
	8. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the facility operations referenced in the Order.
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•						100505	•
Page 1 Policy Revision 2	Pe	nalty Calcu		Enterprises PST rksheet (P		PCW Revision N	
TCEQ DATES PCW	11-Jan-2007	Screening 23-	Sep-2003 Pric	rity Due 22-No	v-2003	EPA Due	
RESPONDENT/FACIL Respondent Reg. Ent. Ref. No. Additional ID No(s). Facility/Site Region	Friend Enterprise RN100825090 Retroleum Stora	es Inc. dba Friend	dly Mart	Major/Minor s	Source Min	or Source	
CASE INFORMATION Enf./Case ID No. Docket No. Case Priority Media Program(s)	9296 2003:1045-PST 2 Petroleum Stora	ge Tank	Maximum \$1	No. of Vio Orde Enf. Goord	lations 3 er Type 166 dinator Mei	0 without defer	
		Penalty	Calculatio	n Section			
TOTAL BASE PEN ADJUSTMENTS	+/-) TO SUBTO	OT/ALL'IR				Subtotal 1	\$17,000
Subtotals 2-7 are	obtained by multiplying History	the Total Base Pena NOVs with the sa	-10% Ennan ime or similar vic	cement	Subtotal	s 2, 3, 8 7	\$1,700
Culpability  Notes	No <u>[≤</u> The Re	spondent does n	years.  0% Enhant ot meet the culp			Subtotal 4	\$0
Good Faith E  Extraordinary  Ordinary		OV to EDPRP/Settlen	0% Reduc	ion		Subtotal 5	\$0
N/A Notes	X	nark with a small x) Gompliance has				- Thirties and the second	
Approx. C	Total EB Amounts ost of Compliance	\$3,778 \$2,501	0%/Entian *Cap <sub>i</sub>	cements bed at the Total EB \$	S Amount	Subtotal 6	·
SUM OF SUBTOT		MAVPEALU	oe -	11% Enhance	(September 1 contributed 2	l Subtotal	\$15,300 \$1,700
OTHER FACTORS Reduces or enhances the Fi Notes	nal Subtotal by the ind Because this is	MAY REQUII icated percentage. (E a Default Order; stment to offset t	Enter number only; e. the Executive Di	g30 for -30%.) rector: recomme compliance histo	nds an pry:		
		•		, F	inal Penalt	y Amount	\$17,000

Final Assessed Penalty \$17,000

0% Reduction Adjustment \$0

STATUTORY LIMIT ADJUSTMENT

DEFERRAL

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferrals are not recommended for nonexpedited orders.

	ing Date 23-Sep-2003 Docket No. 2003-1045-PST-E		PC	:W
	pondent Friend Enterprises Inc. dba Friendly Mart	-	sion 2 (Septembe	•
ELINOTESIA KATATA ELIKA KATENA KATANDA MAN	se ID No. 9296	PC	W Revision May 1	7, 2004
ALCOHOLOGICAL PROPERTY OF THE	ence:No: RN100825090			
三元·首先的第三人称形式 (1914年) 1、1、10年代 (1914年) 1814年(1914年) 1、1、1、1、1、1、1、1、1、1、1、1、1、1、1、1、1、1、1、	D No(s) Petroleum Storage Tank Registration No. 007146	•		
	Statute Petroleum Storage Tank			
Ent. Coo	ordinator: Merrilee Hupp Address 7200 Manchaca Road, Austin, Travis Count			
Site.	Address 200 Manchaca Road, Austin, Fravis Count	y miranamenta		
	Compliance History Worksheet			
Compliance His	story Site Enhancement (Subtotal 2)			
	Number of Enter	Number Here	Adjust.	
And the second s	Written NOVs with same or similar violations as those in the current	Ö	0%	
NOVs	enforcement action (number of NOVs meeting criteria)	0	0%	
	Other written NOVs  Any agreed final enforcement orders containing a denial of liability			
	(number of orders meeting criteria)	0.	0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders	- Cornello - English (		
Ordaro	without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the	0	0%	
	commission			
<u></u>	Any non-adjudicated final court judgments or consent decrees containing	AND THE RESERVE THE STREET		
Judgments	a denial of liability of this state or the federal government (number of	0	0%	
and Consent	judgements or consent decrees meeting criteria)  Any adjudicated final court judgments and default judgments, or			
Decrees	non-adjudicated final court judgments or consent decrees without a denial	0	0%	
	of liability, of this state or the federal government			
Convictions	Any criminal convictions of this state or the federal government (number	0	0%	
	of counts) Chronic excessive emissions events (number of events)	\$200 d	0%	
Emissions	Letters notifying the executive director of an intended audit conducted		0 70	•
	under the Texas Environmental, Health, and Safety Audit Privilege Act,	0	0%	
Audits	74th Legislature, 1995 (number of audits for which notices were	605346-26/933		
.,	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for	Ŏ	0%	
	which violations were disclosed)		• 70 .	
		ter Yes or No	00/	
1	Environmental management systems in place for one year or more  Voluntary on-site compliance assessments conducted by the executive	No	0%	
	director under a special assistance program	No	0%	
Other	Participation in a voluntary pollution reduction program	: No	0%	
	Early compliance with, or offer of a product that meets future state or	None	0%	
	federal government environmental requirements	1496. WEST, 74.198		
	Adjustment Percen	ntage (Sui	btotal 2)	0%
Repeat Violator	- (Subtotal:3)			
No	Adjustment Percen	ntage (Su	btotal 3)	0%
Compliance His	story/Person Classification (Subtotal 7)			
High Perform		tage (Su	btotal 7)	-10%
**************************************				
Compliance His	SEEDING STATES AND SEEDING SEE			<b>新聞語 20</b>
Compliance History Notes	No orders or NOVs with the same or similar violations in the pa	st 5 years.		
inotory rector				
	Total Adjustment Percentage (Sub	totals 2,	3, & 7) -	10%

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Screening Date 23-Sep-2003 Docket:No: 2003-1045-PST-E	PCW.
Respondent, Friend Enterprises Inc. dba Friendly Mart	olicy Revision 2 (September 2002)
Case ID No. 9296	PCW Revision May 17, 2004
Reg: Ent. Reference No. RN100825090	
Additional ID No(s). Petroleum Storage Tank Registration No. 007146	
:Media [Statute] Petroleum Storage Tank	
Enf. Coordinator Merrilee Hupp	
Violation Number	
Primary Rule Cite(s) 30.Tex.Admin Code(§ 334:50(b)(1)(A)	
Secondary Rule Cite(s) Tex. Water Code § 26.3475(c)(1)	97 ( ) 43 (46 T ) 44 (4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Failure to monitor the underground storage tanks (USTs) for release frequency of at least once per month, not to exceed 35 days between monitoring, as documented during an investigation conducted under 17, 2002.	veen
Base F	Penalty \$10,000
>> Environmental Property and Human Health Matrix	
Harm	
Release Major Moderate Minor	
OR Actual Potential X	
Potential X Percent 25%	
D. Company of the Markey	;
>> Programmatic Matrix Falsification Major Moderate Minor	
Percent Percent	
The Control of the Co	•
Matrix Notes  Hallure to monitor the USTs for release at a frequency of at least once permonth can result in the exposure of a significant amount of contaminants.  Which may exceed levels that are protective of human health and the environment.	
Adjustment -	\$7,500
Base Penalty St	ubtotal \$2,500
Violation Events	
Alimahan at Vialation Experies (August 1997)	
Number of Violation Events	,
dGW	
moniny moning	,
mark only one violation Base F	Penalty \$7,500
use a small x semiannual X	
annual and a second	
singelevent	
Three semiannual events are recommended from the investigation date of June 17, 2002 to the settlement deadline date of December 14, 2003 to make the penalty commensurate with the situation.	
Economic Benefit (EB) for this violation Statutory Limit Tes	1
Estimated EB Amount \$1,380 Violation Final Penalt	y Total \$7,500
This violation Final Assessed Penalty (adjusted for	limits) \$7,500

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Page 4 of 8 06	6/25/07 H:\EN	NFORCE\RMos	sley\Friend Ente	erprises	PST\PCW-re	vised 6 25 07.0	ibw .
Case ID No Reg.:Ent.:Reference No. /Additional:ID No(s)	Friend Enterpr 9296 RN100825090 Petroleum Sto	ises Inc. dba F rage Tank Reg	·	tiralor ("hobbid Jaros ti	et ·		
Media [Statute] Violation No.		rage Tank  Date	Final Date	Yrs	Jinterest Sayed	Percent Interest 5.0 Onetime	Years of Depreciation 15
Description	Notcommasjor(\$)						
Delayed Costs							
Equipment	V 174511913		and Harrist M	0.0	\$0	\$0	\$0
Buildings	THE RESERVE THE			0.0	\$0	` \$0	\$0
Other (as needed)		ANN AND AND		0.0	\$0	\$0	\$0
Engineering/construction			State SWEIT	0.0	\$0	80	\$0
Land	53.5			0.0	\$0	n/a-sim	\$0
Record Keeping System				0.0	\$0	in/at/	\$0
Training/Sampling				0.0	\$0	rijun/ay.ve	\$0
Remediation/Disposal				0.0	\$0	i in/a il del	\$0
· Permit Costs	\$1000 Y. A.A.			0.0	\$0	nic m/a usa il	\$0
Other (as needed)	19. det : : : : : : : : : : : : : : : : :	*************************************		0.0	\$0	in/a	\$0
Notes for DELAYED costs				•			
		•					1
Avoided Costs	ANN	JALIZE [1] avoide	dicosts!beforeieni	ering iter	ni(exceptiforior	e-time avolded co	sts)
Disposal	144201035			0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		<b>不信息的过程的</b>	CHECKERY	0.0	\$0	\$0	\$0
Supplies/equipment			W. C. C. (10) W. S.	0.0	\$0	\$0	\$0
Financial Assurance [2]			2012/01/01	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	Factor (2006)	100	100000000000000000000000000000000000000	0.0	\$0	\$0	\$0
Other (as needed)	\$1,200	17-Jun-2002	30-Mar-2005	3.0	\$180	\$1,200	\$1,380
Notes for AVOIDED costs	Estimated and	nualized cost to	performistatis in date. Final o			lliation (SIR)i∞l	
Approx. Cost of Compliance	\$1,200					TOTAL	\$1,380

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Screening Date		CHEKEPELSKEINGER ANDERS AND	Marie - Marie - Marie -	2003-1045-PS		news-merchanic
	Friend Enterprises	inc. apa Frieni	uly Man		-	ision 2 (September 2002) W Revision May 17, 2004
Case ID No. Reg. Ent. Reference No.	4.1					W Revision may 11, 2004
Additional ID No(s).		Tonk Pogletra	ition No. 00	7146		,
10年度的企业中的特殊的1975年,在1976年,中国1976年的1976年,1976年的1976年,1976年,1976年,1976年,1976年,1976年,1976年,1976年,1976年,1976年,1976年			ilion no. oc	77 140		
Media [Statute]		Halik			•	
Enf. Coordinator Violation Number		* .				
Primary Rule Cite(s)		30 Tex. Adm	in. Code §	334.48(ć)		]
Secondary Rule Cite(s)						
Jecondary Raio Gio(G)	Failure to conduct	inventory contr	ol and reco	onciliation for a	UST system at	
Violation Description	The state of the s	documented of 17, 2002 and	during inves	stigations cond	ucted on June	
	,				Base Penalty	\$10,000
					base Penany	\$ 10,000
>>> Environmental Pro	merty and Hum	an Health N	latrix			:
	Harm				Presentation	
Release	Major Moderat			<b>.</b> .		
OR: Actual						•
Potential	X X			Percent	25%	• • • •
Programmatic Mat	The result of th	e Minor				٠,
Falsification	Major Moderat	e willor		Percent		• '
	The wild to the Labour To the man Access the second	DATE OF THE PARTY				
- Failure to	conduct inventory	control and red	conciliation	for a UST sys	tem	
Matrix Notes can resu	t in the exposure of exceed levels that	a significant a	mount of co	ontaminants W	nich	
IIIay	exceed levels mai	environment.		eaurard inc		
	Principle by the second of the					
		200		Adjust	ment -\$7,500	
•	•			Bees B	analti Cubtotal	\$2,500
•			•	Dase F	enalty Subtotal	ψ2,000
Violation Events						
		AND THE PERSON NAMED IN COLUMN		2440011-02200-0200-02100-0		
Number of Violat	ion Events		•			• .
		<u> </u>	• •		•	
	daily					
	monthly			Violatio	n Base Penalty	\$7,500
mark only one use a small x	quarteriy semiannual X	35 (31) 33 (31)		7.0,000		<u> </u>
l aco a omen x	annual					
	single event			•		
	)	State State on August and August State Sta		THE PARTY OF THE P		
Three ser	miannual events are	recommended	from the i	nvestigation:da	ate of	
June 1//	2002 to the settler				3:10	
	- make tile penalty				72.502.51I	
Economic Benefit	EBNFAR HUSIN	Vation		Statutory Li	mit Test	
Economic Dellent				z.u.u.yiyi		
Estimated E	B Amount \$2,3	43		Violation Fin	al Penalty Total	\$7,500
						AT 100
	This	violation Final	Assessed	l Penalty (adju	usted for limits)	\$7,500

I ago o or o	**************************************		erencueronniterronnoso			NO ANTENNA DE LA COMPANSIONE DE LA COMP	
Case ID No.	Economic Benefit Worksheet  Respondent: Friend Enterprises Inc. dba Friendly Mart  Case ID No. 9296						
Reg. Ent. Reference No.						• • •	
Additional ID No(s).	Petroleum Stor	rage Tank Reg	istration No. 00	7146			
Media [Statute]			•			Percent	Years of
Violation No.						Interest	Depreciation
The Property of the Control of the C		eskupanjarki	enverseasaassina		******	5.0	15
			Final	Yrs	Interest	Onetime	EB.
	ltem	Date	ANAMAS CONTRACTOR	115	TENERS CONTROL OF THE PERSON NAMED OF		机化化物 地名美国拉拉
lten	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$						MARINA MARIA
The state of the Mark State of the State of	en saaren konstant en	en e	enteresponantelyesineruras	ensemuseus	stranova a depoleçõe de consta	DESMANDED NA SERVES DESMANDE	SOCIATION CONTRACTOR C
Delayed Costs	949 (730 San Balan 1981)			3000723			Manufacture Res
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)		,		0.0	\$0	\$0	\$0
Engineering/construction	Ľ.			0.0	\$0	\$0	· \$0
Land			TEV PARTER	0.0	\$0	n/a	. \$0
Record Keeping System		were water		0.0	\$0	n/a with	\$0
Training/Sampling				0.0	\$0	in/a	\$0
Remediation/Disposal	1.01 ( M. 1.50)			0.0	\$0	n kun/an	\$0
Permit Costs				0.0	\$0	in/a	\$0
Other (as needed)	ESTREET, INC.	Aquaev i vicali		0.0	\$0	v a n/a	\$0
Other (as necessar)	a etti stata av tivetjeti.			llarania and a	<del>un en e</del>	PRODUCTION OF THE PROPERTY.	
Notes for DELAYED costs							
				<u> </u>			
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w cholanian daging an en arban et dia esperanta da est des estados de estados		andara accessivamentes est	PRINCESSES CONTRACTOR	HERENWESS OF	TATALON TO THE TATALON THE TATALON TO THE TATALON T	reschander frankriter fra 1900 be	PROTESTAL PARTIE NAME OF THE PARTIES
Avoided Costs	ANN	JALIZE[[1]] avoide				e-time avoided co	
Disposal			North State of the	0.0	\$0	\$0	\$0
Personnel		17-Jun-2002	30-Mar-2005.	2.8	\$112	\$2,232	\$2,343
Inspection/Reporting/Sampling	16,美加州西北部	<b>产于2004年12月</b> 21日		0.0	\$0	\$0	. \$0
Supplies/equipment	<b>计通常数据</b>	<b>以中国的基本的</b>	\$151631/desite10111	0.0	\$0.	\$0	\$0
Financial Assurance [2]	Aleka kalendari kalendari	d application in Landium bet		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0376-1121-013-12	NOTE: THE PARTY OF	23440 FEDVIRON	0.0	\$0	· \$0	\$0
Other (as needed)	216/051785221	ayer water	Harris Parketty	0.0	\$0	\$0	\$0
,	demokratice dollers in	CANDADA PARA		C100/b-	L. A SEIGNI	s/day x 365 day	over v 1 5
	Estimated ex	pense for inver	HOLY COLLEGE (4)	0.00/110	ui x.0.25 iloui	s/uay x 300 ua	ys/year x 1.5
Notes for AVOIDED costs	years)., wate	required is the	mvesigation d	**************************************	ine illardate	is the projected	a compliance
		Charles in the	A CONTROL OF THE	date			
!	سندو و و در						
Approx. Cost of Compliance	\$801				1	TOTAL	\$2,343
Approx. Cost of Compilance	ΨΟΟΤ				ì	deligi elikubini deligitati ili deligitati di	Ψ2,0-10

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Screening Date	23-Sep-2003	Dock	et No. 2003-1	045-PST-E		PGW
	Friend Enterprises	Enthy Byrnathdrifterstrates of the enthy	C BEB-DB-CELANAL COLO		Policy Revis	ion 2 (September 2002)
Case ID No.	i .				PCN	Revision May 17, 2004
Reg. Ent. Reference No.						•
Additional ID No(s).		Tank Registrat	ion No. 007146		•	
Media [Statute]						
Enf. Coordinator						
Violation Number		+ 0.				•
Primary Rule Cite(s)	30 Tex. Admin.	Code §§ 334.50	)(b)(2)(A)(i)(III) <sub>(</sub> a	nd 334.50(b)(2	2)(A)(ii)	
Secondary Rule Cite(s)		≝–Tex. Water 0	Code §:26.3475(	a) 💢 💮 💮		
Violation Description	Specifically, th	or monitor the pi e Respondent f failed to conduc documented du Septem	alled to test the p t a performance	oressurized line test of the line	es for leak	
				Bas	e Penalty 🗌	\$10,000
		THE SHARE STREET		75/50/14/4/15/52/M/154/54		
>> Environmental: Pro			atrix,			
Release	Harm					
OR Actual	Major Moderate	e Minor				,
Potential	X		Perce	nt 10%	•	
			ecoponicarioreitis			
>> ::: Programmatic Mat	rix					
: Falsification	Major Moderate	e Minor	-	,		
			Perce	ent'		
						•
	to test the piping folions to remain unde					
Matrix Notes Would	not exceed levels t	hat are protective	ve of human hea	Ith or the		
		environment.				
				NO ST DECEMBER OF STREET		
				Adjustment	-\$9,000	,
	•	•		Dean Banaltu	Cubtotal	\$1,000
· . · ·				Base Penalty	Subtotal _	Ψ1,000
Violation Events						
VIOIANONI EVENUS		A LOS CONTRACTOR CONTR				
Number of Violat	ion Events					
	TOTAL DEL SECURIO DE S	<u> </u>				
	dally		•	·		
· · ·	monthly			Violation Bas	e Penalty	\$2,000
mark only one use a small x	1.00 125 16 16 17 18 18 18 18 18 18 18 18 18 18 18 18 18	7.5		VIOIACIOII DAS	c i charty_	Ψ2,000
·	annual					•
	single event	<b>\$</b> 5		•	*	
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	iannual events are r					
	when the investigative was screened, to					
Thin I I G G G	10 1743 30 GG1 CG1 CG1 10	situation				
gue Wari		s and a filler trees results the filler of the filler from	received a green model and the second and the	and to the first of the second section (1971), and		
Economic Benefit	(EB) for this vic	lation	Statut	tory Limit T	est	
	Walt Basis Allegan Sansa Walter Commission C				, , , ,	<b>#0.000</b>
Estimated E	B Amount \$5	54	Violat	ion Final Pen	aity i otai [_	\$2,000
	This	violation Final	Assessed Pena	Ity (adjusted f	or limits)	\$2,000

Page 8 of 8 Ut	5/25/07 H:\E!	NFURUEIRINIOS	веук-пепа Епц	erprise	S POTPOW-IE	viseu o 25 or.q	ba.	
	E	onomic B	enefit Wo	rksh	eet .	Asia Santan		
Respondent	it Friend Enterprises Inc. dba Friendly Mart							
Case ID No.								
Reg. Ent. Reference No.	RN100825090							
Additional ID No(s)	Petroleum Sto	rage Tank Reg	istration No. 00	7146			New Telephone International Control of	
Media [Statute]		rage Tank				Rercent	Years of	
Violation No.	3	warmen and attended and out of the safet & high ba	nava nederitata kalendar, ordani sekabandar	n dordžiauskih v	ografiya gara karaliyan kerande katel		Depreciation	
						5.0	15	
	er i liemi	Date	Final	Yrs	Interest	- Onetime is	(EB)(	
Item	ik : Cost	Required	Date: Jish		Saved	**Costs	Amount :	
Description	No commas or \$							
arta karangan pangan kerangan kerangan pangan p		uaneren eren eren eren er					STATE OF THE STATE	
Delayed Costs			SECTION STATES	0.0	\$0	\$0	\$0	
Equipment	/	instructural Summer accusi		0.0	\$0 \$0	\$0 \$0	\$0	
Buildings	<b>\$E00</b>	11-Sep-2003	30 Mar 2005	1.6	\$3	\$52	\$54	
Other (as needed)	.0000	1-121-Sep-2003	30=Mai-2003	0.0	·\$0	\$0	\$0	
Engineering/construction Land		1000-2		0.0	\$0	in/air	\$0	
Record Keeping System	interior			0.0	\$0	in/a	\$0	
Record Reeping System Training/Sampling				0.0	\$0	n/a	\$0	
Remediation/Disposal		123 133 134 134 134 134 134 134 134 134 13	THE STATE OF STATE OF	0.0	\$0	n/arriv	\$0	
Permit Costs	7772		51775637474	0.0	\$0	m/a	\$0	
Other (as needed)				0.0	\$0	a din/au tris	\$0	
Cirici (as nesaca)		t listed above i	s an estimate o	f the s	annual cost of c	onducting the to	ests. Date	
Notes for DELAYED costs	required is	the investigation	on date and the	final	date is the expe	cted date of co	mpliance.	
			•					
Avoided Costs	ÁNŃ	UALIZE(fri) avoide	d costs before en	teringi	tem (except for or	e-time avoided co	sts)	
Disposal		The second second	(4= terbinasyreter cwl)	0.0	\$0	\$0	\$0	
Personnel	PARTY STREET	50 c 1 a March 1997 (M	need the ment of the	0.0	\$0	\$0	\$0	
Inspection/Reporting/Sampling		125-16-12-53/115-1-12-12-12-1	P02231756535411277	0.0	\$0	\$0	\$0	
Supplies/equipment		SPASHER BUTT		0.0	\$0	\$0	\$0	
Financial Assurance [2]	Mary and the same of the same	784000785080		0.0	\$0	\$0	\$0	
ONE-TIME avoided costs [3]	A. V. T.	F144 E174 (F177) XXX		0.0	\$0	\$0	\$0	
Other (as needed)	14742017484440	279847148089693	STATE OF THE STATE	0,0	\$0	\$0	\$0	
, ,	100000000000000000000000000000000000000					The second secon		
Notes for AVOIDED costs	processor for a Tu. Y Na Karbanian w				•			
	[1.00.07.07.07.00.00.07.00]							
Approx. Cost of Compliance	\$500					TOTAL	\$54	

# Compliance History

Custom	er/Respondent/Owner-Operator:	CN601370315	FRIEN	ND ENTERPRISES INC	;	Classification:	HIGH	Rating: 0.00
Regulat	ed Entity:	RN100825090	FRIEN	NDLY MART		Classification:	HIGH	Site Rating: 0.0
ID Numl	ber(s):		EDWARDS AQUIFER PETROLEUM STORAGE TANK REGISTRATION			TION TION		11-94101701 7146
Location	n:	7200 MANCHACA	RD, AU	ISTIN, TX, 78745		Rating Date: 9	/1/03 Repeat V	iolator: NO
TCEQ F	Region:	REGION 11 - AUS	STIN					·
Date Co	ompliance History Prepared:	October 09, 2003						
Agency	Decision Requiring Compliance Histor	y: Enforcement						,
Complia	ance Period:	September 24, 199	98 to Sep	otember 24, 2003				
TCEQ S	Staff Member to Contact for Additional	Information Regarding this	Complia	nce History				
Name:	Thomas Jecha	Pho-	one:	512-239-2576				
		Site 0	Complia	nce History Compor	nents			
2. Has ti 3. If Yes	he site been in existence and/or opera here been a (known) change in owner s, who is the current owner? s, who was/were the prior owner(s)?	-		•	Yes No N/A N/A			_
5. When	n did the change(s) in ownership occu	7			N/A			
Compo	nents (Multimedia) for the Site:					,		
A.	Final Enforcement Orders, court ju	dgements, and consent dec	crees of t	the state of Texas and th	ne federal gove	ernment.		
	N/A							
B.	Any criminal convictions of the stat	e of Texas and the federal	governm	ent.				,
	N/A		_					
C.	Chronic excessive emissions even	ts.						
	N/A					Ÿ		
D.	The dates of investigations.						•	
	N/A 2 05/13/1999 3 08/27/2002			`				
E.	Written notices of violations (NOV).							
F.	N/A Environmental audits. N/A	,						
G.	Type of environmental management	nt systems (EMSs).						
Н.	N/A · Voluntary on-site compliance asset	ssment dates.						. `
	N/A	1		·				
ſ.	Participation in a voluntary pollution	reduction program.						
1	N/A Forly compliance							
J.	Early compliance.							
Sites Ou	itside of Texas					•		
	N/A							

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



§	BEFORE THE
§	
§	TEXAS COMMISSION ON
§	
§	ENVIRONMENTAL QUALITY
	\$ \$ \$ \$ \$ \$ \$

## DEFAULT AND SHUTDOWN ORDER DOCKET NO. 2003-1045-PST-E

At its	agenda, the Texas Commission on Environmental Quality,
("Commission" or "TCEQ"	) considered the Executive Director's Second Amended Report and
Petition filed pursuant to TEX	K. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests
appropriate relief, including	the revocation of the respondent's underground storage tank ("UST")
delivery certificate, the imp	position of an administrative penalty and corrective action of the
respondent. The TCEQ also	considered the Motion of the Executive Director requesting entry of an
order requiring the responde	nt, Friend Enterprises Inc. dba Friendly Mart ("Friend Enterprises" or
"Respondent"), to shutdown	or remove from service the USTs at the Friendly Mart station, located at
7200 Manchaca, Austin, Tra	vis County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

## FINDINGS OF FACT

- 1. Friend Enterprises owns and operates a convenience store with retail sales of gasoline located at 7200 Manchaca, Austin, Travis County, Texas (the "Facility").
- 2. Friend Enterprises' USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Friend Enterprises' USTs contain a regulated petroleum substance as defined in the rules of the Commission.
- 3. During an inspection conducted on June 17, 2002, a TCEQ Austin Regional Office investigator documented that Friend Enterprises:
  - a. failed to monitor the USTs for releases at a frequency of at least once per month, not to exceed 35 days between each monitoring; and
  - b. failed to conduct inventory control and reconciliation for a UST system at a retail facility.

- 4. During an inspection conducted on September 11, 2003, a TCEQ Austin Regional Office investigator documented that Friend Enterprises failed to test or monitor the piping in the UST system for releases. Specifically, Friend Enterprises failed to test the pressurized lines for releases and failed to conduct a performance test of the line leak detectors.
- 5. By letters dated October 14, 2003 and November 13, 2003 the TCEQ Austin Regional Office provided Friend Enterprises with notice of the violations and the TCEQ's authority to shut down and remove from service UST systems not in compliance with UST system release detection, spill and overfill prevention and/or corrosion protection requirements if the violations were not corrected.
- 6. Friend Enterprises received notice of the violations on or about October 19, 2003 and November 18, 2003.
- 7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friend Enterprises, Inc. dba Friendly Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on January 18, 2005.
- 8. By letter dated January 18, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Friend Enterprises with notice of the EDPRP. According to the return receipt "green card", Friend Enterprises received notice of the EDPRP on January 20, 2005, as evidenced by the signature on the card.
- 9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of "Friend Enterprises, Inc. dba Friendly Mart" (the "EDFARP") in the TCEQ Chief Clerk's office on October 11, 2006.
- 10. By letter dated October 11, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Friend Enterprises with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Friend Enterprises received notice of the EDPRP.
- 11. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of "Friend Enterprises, Inc. dba Friendly Mart" (the "EDSARP") in the TCEQ Chief Clerk's office on January 19, 2007.

- 12. By letter dated January 19, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Friend Enterprises with notice of the EDSARP. According to the return receipt "green card", Friend Enterprises received notice of the EDSARP on January 20, 2007, as evidenced by the signature on the card.
- 13. More than 20 days have elapsed since Friend Enterprises received notice of the EDPRP, EDFARP, and EDSARP provided by the Executive Director. Friend Enterprises failed to file an answer to either the EDPRP, the EDFARP, or the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.
- 14. By letter dated February 15, 2007, the TCEQ provided Friend Enterprises with notice of the TCEQ's intent to order the UST systems at the Facility shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Friend Enterprises' receipt of the letter.
- 15. As of the date of entry of this Order, Friend Enterprises has not corrected the release detection violations noted during the June 17, 2002 and September 11, 2003 investigations.
- 16. The UST systems at the Facility do not have release detection as required by 30 Tex. ADMIN. CODE § 334.50 and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

### CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Friend Enterprises is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3.a., Friend Enterprises failed to monitor the USTs for releases at a frequency of at least once per month, not to exceed 35 days between each monitoring, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER CODE § 26.3475(c)(1).
- 3. As evidenced by Finding of Fact No. 3.b., Friend Enterprises failed to conduct inventory control and reconciliation for a UST system at a retail facility, in violation of 30 Tex. ADMIN. CODE § 334.48(c).
- 4. As evidenced by Finding of Fact No. 4, Friend Enterprises failed to test or monitor the piping in the UST system for releases, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and (b)(2)(A)(ii), and Tex. WATER CODE § 26.3475(a).

- 5. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Friend Enterprises with proper notice of the EDPRP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(a).
- 6. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director has timely served Friend Enterprises with proper notice of the EDFARP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(c)(2).
- 7. As evidenced by Finding of Fact Nos. 11 and 12, the Executive Director has timely served Friend Enterprises with proper notice of the EDSARP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(a).
- 8. As evidenced by Finding of Fact No. 13, Friend Enterprises has failed to file a timely answer to either the EDPRP, the EDFARP, or the EDSARP as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Friend Enterprises and assess the penalty recommended by the Executive Director.
- 9. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Friend Enterprises for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 10. An administrative penalty in the amount of seventeen thousand dollars (\$17,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 11. As evidenced by Finding of Fact Nos. 3, 4, 5, 6, 14, and 15 Friend Enterprises failed to correct documented violations of Commission requirements within 30 days after Friend Enterprises received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
- 12. Tex. Water Code § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, and/or corrosion protection for tanks and piping.
- 13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
- 14. Pursuant to 30 Tex. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Friend Enterprises' UST delivery certificate if the Commission finds good cause exists.

- 15. Good cause for revocation of Friend Enterprises' delivery certificate exists as justified by Findings of Fact Nos. 3 through 16 and Conclusions of Law Nos. 2, 3, 4, 5, 6, 7, 8, and 11.
- 16. As evidenced by Finding of Fact No. 16, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to Tex. Gov't Code § 2001.144(a)(3), this Order is final and effective on the date rendered.

#### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

- 1. Immediately upon the effective date of this Order:
  - a. Friend Enterprises shall take the following steps to shut down operations of the non-compliant UST systems at the Facility:
    - i. Cease dispensing fuel from the USTs;
    - ii. Cease receiving deliveries of regulated substances into the USTs;
    - iii. Padlock the dispensers;
    - iv. Empty the USTs of all regulated substances in accordance with 30 Tex. ADMIN. CODE § 334.54(d); and
    - v. Temporarily remove the UST system from service in accordance with 30 Tex. ADMIN. CODE § 334.54.
  - b. Friend Enterprises' UST delivery certificate is revoked immediately upon the effective date of this Order. Friend Enterprises may submit an application for a new delivery certificate only after Friend Enterprises has complied with all of the requirements of this order.
- 2. Within 10 days after the effective date of this Order, Friend Enterprises shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. Within 15 days after the effective date of this Order, Friend Enterprises shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provisions Nos. 1.a.i. through 1.a.v. Friend Enterprises shall submit the report to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Barry Kalda, Waste Section Manager Texas Commission on Environmental Quality Austin Regional Office 1921 Cedar Bend Drive, Suite A150 Austin, Texas 78758

4. If Friend Enterprises elects to permanently remove from service any UST systems at the Facility, Friend Enterprises shall permanently remove those UST systems in accordance with 30 Tex. Admin. Code § 334.55, and shall, within 15 days after the effective date of this Order, submit to the Commission a written report documenting compliance with 30 Tex. Admin. Code § 334.55. Friend Enterprises shall submit the report to:

Petroleum Storage Tank Registration Team, MC 138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

5. Friend Enterprises is assessed an administrative penalty in the amount of seventeen thousand dollars (\$17,000.00) for violations of Tex. Water Code chs. 7 and 26 and rules of the TCEQ. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Friend Enterprises, Inc. dba Friendly Mart; Docket No. 2003-1045-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 6. Prior to resuming service of the USTs, Friend Enterprises shall:
  - a. Test or monitor the piping in the UST system;
  - b. Install and implement a release detection method in accordance with 30 Tex. ADMIN. CODE § 334.50;
  - c. Immediately upon the effective date of the Commission Order, Friend Enterprises shall begin conducting inventory control and reconciliation procedures, in accordance with 30 Tex. Admin. Code § 334.48(c);
- 7. Within 10 days of resuming service to the USTs, Friend Enterprises shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision numbers 6.a. and 6.c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

#### With a copy to:

Mr. Barry Kalda, Waste Section Manager Texas Commission on Environmental Quality Austin Regional Office 1921 Cedar Bend Drive, Suite A150 Austin, Texas 78758

- 8. Friend Enterprises' UST systems shall remain out of service as directed by Ordering Provision No. 1.a. until such time as Friend Enterprises demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Findings of Fact Nos. 3.a. and 4 and Conclusions of Law Nos. 2 and 4 herein. The payment of the administrative penalty and Friend Enterprises' compliance with all of the terms and conditions set forth in this order completely resolve the matters set forth by this order in this action.
- 9. All relief not expressly granted in this Order is denied.
- 10. The provisions of this Order shall apply to and be binding upon Friend Enterprises. Friend Enterprises is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 11. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Friend Enterprises if the Executive Director determines that Friend Enterprises has not complied with one or more of the terms or conditions in this Order.
- 12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 13. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. ADMIN. CODE § 70.106(d) and Tex. Gov't Code § 2001.144.

# SIGNATURE PAGE

TEXAS COMMISSION ON I	ENVIRONMENTAL (	DUALITY
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For the Commission

#### AFFIDAVIT OF ROBERT R. MOSLEY

STATE OF TEXAS

COUNTY OF TRAVIS

"My name is Robert R. Mosley. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friend Enterprises, Inc. dba Friendly Mart" (the "EDPRP") was filed with the Office of the Chief Clerk on January 18, 2005.

The EDPRP was sent to Friend Enterprises at its last known address on January 18, 2005 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Friend Enterprises received notice of the EDPRP on January 20, 2005, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friend Enterprises, Inc. dba Friendly Mart" (the "EDFARP") with the Office of the Chief Clerk on October 11, 2006.

I sent the EDFARP to Friend Enterprises at its last known address on October 11, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 Tex. Admin. Code § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friend Enterprises, Inc. dba Friendly Mart" (the "EDSARP") with the Office of the Chief Clerk on January 19, 2007.

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By letter dated February 15, 2007 via first class mail and certified mail, return receipt requested (Article No. 7004 1350 0002 7566 1696), I provided Friend Enterprises with notice of the TCEQ's intent to order the UST systems at the Facility shutdown and removed from service if the violations pertaining to release detection, spill and overfill prevention equipment, and/or corrosion protection were not corrected within 30 days of Friend Enterprises' receipt of the letter. As of the date of this affidavit, Friend Enterprises has not corrected the violations noted during the June 17, 2002 and September 11, 2003 investigations."

Robert R. Mosley

Attorney

Texas Commission on Environmental Quality

Jacqueline Frances Duckworth
Notary Public
State of Texas
My Commission Expires
April 25, 2011/

Before me, the undersigned authority, on this day personally appeared Robert R. Mosley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31th day of Morel, A.D., 2008.

Notary Stamp